REMARKS

Claims 1-31 are pending in the application.

Claims 1-31 have been rejected.

Applicant previously submitted a response after final rejection on October 10, 2006 within the allowed two month time period from mailing of the final rejection. The claim amendments made therein have been entered. Applicant, therefore, assumes that the prior § 112 rejection has been withdrawn, and the response below addresses the remaining § 103 rejections.

New Claim 32 has been added.

I. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-2, 5, 13-15, 20-22, 24, and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams (US Patent 6,154,730) in view of Hertel-Szabadi (US Patent Application Publication 2003/0233267). Claims 3-4, 8-9, 12, 16, 18 and 25-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams (US Patent 6,154,730) in view of Hertel-Szabadi (US Patent Application Publication 2003/0233267) and in further view of Christianitytoday.com. Claims 6-7, 10, 17 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams (US Patent 6,154,730) in view of Hertel-Szabadi (US Patent Application Publication 2003/0233267) and in further view of Eliott (US Patent 6,446,053). Claims 11, 19 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams (US Patent 6,154,730) in view of Hertel-Szabadi (US

Patent Application Publication 2003/0233267) in view of Eliott (US Patent 6,446,053) and in further view of Wakelam (US Patent 6,859,768). The rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. (*MPEP § 2142; In re Fritch, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992)*). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. (*MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984)*). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. (*MPEP § 2142; In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993)*). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. (*In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Grabiak, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985)*).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. (*In re Bell, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993)*). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (*MPEP § 2142*).

The prior Office Action (dated October 10, 2006) is accurate in that Adams discloses "*a system for financing a stadium facility to be constructed*" (citing Adams, Col. 1, lines 41-42). See, Office Action, page 3. Applicant agrees that Adams discloses a system for financing a stadium facility, and is limited so. Importantly, Adams does not teach or suggest or place any importance on the "portions" or "facilities" of the stadium facility - which the Office Action argues is disclosed in Adams. As noted in Applicant's prior response, since Adams operates on a macro level for a single facility, there is no reason or necessity for Adams to identify a plurality of facilities within such complex or place any importance thereon. Therefore, Adams fails to disclose, teach or suggest any desire, necessity, or importance for generating a schedule of the construction projects (for facilities within the complex) using a determined revenue and costs of the stadium.

The Advisory Action (dated October 31, 2006) is also accurate in noting the Hertzel-Szabadi describes that "the project tasks 110 define activities and phases to be performed in the project 105. For example, for a construction project examples of projects tasks 110 may include preparing blue prints, obtaining the proper permits, preparing the foundation, ordering lumber, hiring sub-contractors, etc." (citing Hertzel-Szabadi, Paragraph 0019). See, Advisory Office Action,

Continuation Sheet. Thus, Hertzel-Szabadi merely describes that timelines for specific tasks of a construction project have to be scheduled for that project (paragraph 0003).[1]

Importantly, the prior Office Actions do not appear to address all of Applicant's recited claim language - notably the limitation that the schedule of construction projects - are generated using the determined potential revenue and cost information. In contrast to Hertzel-Szabadi, Applicant uses the determined potential revenue and cost information to generate the schedule for the construction projects. It appears that Hertel-Szabadi plans the structures, costs, revenues, resources and timelines at the same time (and revises them periodically) and the scheduling of the timelines is not based on a previously determined potential revenue stream (from one of the facilities within the complex) and the previously determined cost (of one of the facilities) - as described and claimed by the Applicant.

Therefore, Applicant respectfully submits that the proposed combination of Adams Hertzel-Szabadi does not disclose, teach or suggest all elements of independent Claims 1, 15, 22 and 24.[2]

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[1] Hertel-Szabadi discloses a project management method in which a "project" may be thought of as "a collection of activities and tasks designed to achieve a specific goal." Hertel-Szabadi, Paragraph 0004. Thus, Hertel-Szabadi appears to describe conventional project management in which a "project" is broken down into "phases." Hertel-Szabadi, Paragraph 0004. Hertzel-Szabadi does not disclose or describe generating a schedule of the construction projects (a construction project for each facility) using the previously determined potential revenue of at least one of the facilities and the determined cost of at least one of the facilities

[2] Nor has there been established any motivation to combine these two references. It is unclear how one skilled in the art would be motivated to combine a patent related to general project management with a patent describing a "system for financing" a stadium.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejections of Claims 1-31.[3]

II. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

[3] With respect to the other rejections of certain dependent claims, including new Claim 32, none of the other references supply the deficiencies that have been previously pointed out in the main proposed combination.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at ***rmccutcheon@munckbutrus.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Munck Butrus Deposit Account No. 50-0208.

Respectfully submitted,

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